

## **REMARKS**

The Office Action dated December 28, 2004 has been considered by the Applicant. By way of the present invention, independent Claims 1, 12 and 49 have been amended to more clearly convey the invention.

Following the Office Action dated April 16, 2004, Applicant amended its claims and filed a request for continuing examination. In the present Office Action, the Examiner has withdrawn the previous rejection as obvious under 35 U.S.C. §103(a) as unpatentable over Hagenbach (U.S. Patent No. 4,567,222). In the present Office Action dated December 28, 2004, the Examiner relies on a newly cited reference, Skillicorn (U.S. Patent No. 4,147,854).

The rejection of Claims 1 through 5, 7, 8, 12 through 15, 17 through 26 and 49 through 51 under 35 U.S.C. §102(b) or 35 U.S.C. §103(a) as obvious over Skillicorn, as now amended, is respectfully traversed.

Skillicorn is directed to a new polymer - a liquid vinylidene terminated polymer but is otherwise dissimilar. Specifically, Skillicorn does not disclose or teach a new compound - namely a combination of an anhydrous hydrocarbon compound, a Group VI-A element and a polymer liquid at ambient temperature which are dissolved or digested in asphalt. Additionally, Skillicorn does not disclose heating to react under temperature of from greater than 110°C in order to produce a polymer modified asphalt. All of Skillicorn's examples are at room temperature or at most 105°C. Skillicorn does not teach or even suggest use of a cross-linking compound in asphalt as set forth in the present invention.

Support for the foregoing amendment is found in the specification, for example, at pages 12 and 13, and no new matter has been added.

It would be disadvantageous for the present invention to cure or react at room temperature or slightly elevated temperature.

For all the foregoing reasons, it is respectfully submitted that the application is now in condition for allowance and such action is earnestly solicited. If further issues are presented, a telephone conference with the Examiner is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark G. Kachigian', written over a horizontal line.

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